

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AGRIPROCESSORS, INC., SHOLOM
RUBASHKIN, BRENT BEEBE,
HOSAM AMARA and ZEEV LEVI,

Defendants.

No. 08-CR-1324-LRR

ORDER

The matter before the court is Defendant Brent Beebe's "Motion to Sever Defendants" ("Motion") (docket no. 671). In the Motion, Defendant Beebe asks the court "to sever his trial from the trial scheduled to take place in Sioux Falls, South Dakota, [from] the two co-defendants, Sholom Rubashkin and Agriprocessors, Inc." Motion at 1. Neither the government nor Defendant Rubashkin resist the Motion.

A defendant has a constitutional right to be tried in the state and district where the charged offense was allegedly committed. U.S. Const. art. III, § 2, cl. 2 ("The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed[.]"); U.S. Const. amend. VI ("In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed[.]"). Absent a waiver of that right, a court cannot force a defendant to be tried in another state or district. *See United States v. Stratton*, 649 F.2d 1066, 1076 (5th Cir. 1981) ("Absent the request [for a change of venue], a change of venue may not be ordered."); Fed. R. Crim. P. 21(b) ("*Upon the defendant's motion*, the court may transfer the proceeding, or one or more counts, against that defendant to another district for the

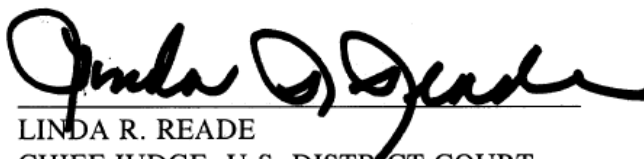
convenience of the parties and witnesses and in the interest of justice.”) (emphasis added).

Defendant Beebe has not waived his right to be tried in the Northern District of Iowa. Accordingly, the Motion is **GRANTED**. Trial on counts 1-72 against Defendant Beebe shall be held in the Northern District of Iowa at the courthouse located at 4200 C Street SW in Cedar Rapids, Iowa. Trial on counts 1-72 against Defendants Agriprocessors, Inc. and Rubashkin shall be held in Sioux Falls, South Dakota, as set forth in previous orders.¹

The parties are **DIRECTED** to confer and propose a trial date for Defendant Beebe on counts 1-72. On or before **September 29, 2009**, the parties shall file notice with the court that contains their proposed trial date. If the parties are unable to reach an agreement on a proposed trial date for Defendant Beebe, then each party should file notice of their respective proposals on or before **September 29, 2009**.

IT IS SO ORDERED.

DATED this 21st day of September, 2009.



LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

¹ Defendant Beebe is not charged in counts 73-163. Accordingly, the portion of the trial presently scheduled to commence on October 13, 2009 in Sioux Falls, South Dakota, is unaffected by the instant Order.